

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

Roanoke Division

WILLIAM R. COUCH, #1128941,

Plaintiff,

v.

CIVIL ACTION NO. 7:09-cv-00434

JOHN JABE, et al.,

Defendants.

ANSWER

COME NOW the Defendants, by counsel, and for their Answer to the Complaint filed herein, state as follows:

FIRST DEFENSE

The Defendants deny that the present action is cognizable under 42 U.S.C. § 1983 and 28 U.S.C. § 1343.

SECOND DEFENSE

The Defendants deny that the Plaintiff has been denied any rights protected by the United States Constitution or any portion of the United States Code.

THIRD DEFENSE

This Complaint fails to state a claim upon which relief can be granted.

FOURTH DEFENSE

The Defendants deny that the Plaintiff has suffered any cognizable injuries or damages as a result of any act or acts on the part of these Defendants.

FIFTH DEFENSE

The Defendants allege and aver that, to the extent that the Plaintiff has suffered any injuries or damages, such injuries or damages were due to an act or acts by the Plaintiff, or on the part of others not under the control of these Defendants, and for whose conduct they are in no wise responsible.

SIXTH DEFENSE

The Defendants deny that the Plaintiff has suffered the injuries and damages alleged and call for strict proof thereof.

SEVENTH DEFENSE

The Defendants deny that they are indebted to or liable to the Plaintiff in any sum whatsoever.

EIGHTH DEFENSE

The Defendants are immune from suit based upon the discharge of their official duties.

NINTH DEFENSE

Defendants are entitled to good faith immunity.

TENTH DEFENSE

As to the specific factual allegations set forth in the Complaint, the Defendants state as follows:

1. Defendants deny that they violated Plaintiff's First or Fourteenth Amendment constitutional rights in denying him Ulysses and Lady Chatterley's Lover.
2. Defendants deny that they violated Plaintiff's constitutional rights in restricting his receipt of a free publication for which he had not received prior approval.
3. Defendants further deny each and every allegation not expressly admitted herein.

WHEREFORE, your Defendants request this action against them be dismissed with prejudice, and that they recover their costs and attorney's fees in and about the defense of this action.

Respectfully submitted,

JOHN JABE, DAN BRAXTON, JOHN GARMAN,
D. SWISHER & RYDER

By: s/ William W. Muse
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CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of January, 2010, I electronically filed the foregoing Answer with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: N/A, and I hereby certify that I have mailed by United States Postal Service the documents to the following non-CM/ECF participants: the Plaintiff, William R. Couch, #1128941, Augusta Correctional Center, 1821 Estaline Valley Road, Craigsville, Virginia 24430.

s/ William W. Muse
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